IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 10TH JULY 2007 / 19TH ASHADHA 1929

WP(C).No. 18047 of 2005(W)

OS.89/2004 of PRINCIPAL SUB COURT,KOCHI
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PETITIONER:

INDIAN BANK, HAVING ITS HEAD OFFICE,
AT 66 RAJAJI SALAI, CHENNAI AND ONE OF ITS
BRANCH AT MATTANCHERRY, KOCHI 682 002, REPRESENTED
BRANCH MANAGER.

BY ADV. SRI.S.EASWARAN

RESPONDENTS:
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1. **ADARSHANAND, AGED 23 YEARS,**
   S/O.T.SUNDHAKAR, RESIDING AT "SUVIDHA", HOUSE
   NO.IX/1058, MANTHRA ROAD, KOCHI 682 002.

2. **DHANANJAY.V. S/O.T.VIDYASAGAR,**
   C BLOCK 6 D, CHACKOLAS HABITAT,
   THEVARA, KOCHI 682 013.

BY ADV. SRI.BABU KARUKAPADATH for R2
SRI.S.VINOD BHAT for R1

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.18047/2005 W

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF WRITTEN STATEMENT FILED BY THE 1ST RESPONDENT IN O.A.NO.531 OF 2002 BEFORE THE DEBTS RECOVERY TRIBUNAL, ERNAKULAM.**

EXT.P2: **COPY OF THE PLAINT IN O.S.NO.89 OF 2004 ON THE FILE OF THE COURT OF THE SUBORDINATE JUDGE, KOCHI.**

EXT.P3: **COPY OF I.A.NO.1147 OF 2004 FILED BY THE PETITIONER IN O.S.89 OF 2004 ON THE FILE OF THE COURT OF THE SUBORDINATE JUDGE, KOCHI.**

/TRUE COPY/

KSS

PIUS C. KURIAKOSE, J.

W.P.(C) NO. 18047 of 2005

Dated this the 10th day of July , 2007

JUDGMENT

I do not propose to go into the merits of the matter. The grievance of the petitioner is that Ext.P3 application under Section 10 of the CPC filed by the defendant/petitioner is not even being considered by the learned Subordinate Judge. Sri.S.Vinod Bhat, the learned counsel for the respondents plaintiffs would submit that Ext.P3 I.A. is not maintainable in law.

2. I do not propose to decide the merits of the above contentions. Ext.P3 I.A. is pending before the learned Subordinate Judge. The respondents are permitted to file objections contending inter alia that Ext.P3 I.A. is not maintainable. Objections, if any, will be filed by the respondents within two weeks of the respondents receiving a copy of this judgment. The learned Subordinate Judge is directed to receive

the objections so filed on file, hear both sides and take a correct decision on Ext.P3 at the earliest, at any rate, by 1.9.2007.

PIUS C. KURIAKOSE,
JUDGE.

dpk